

REMARKS

In the March 9, 2007 Office Action, claims 1-7, 10, 54 and 55 are withdrawn from consideration as being directed to a non-elected invention. Additionally, the amendment filed on December 13, 2006 is deemed non-responsive.

In response, claims 1-7, 10, 54 and 55 are canceled, and new claims 56-69 are added with claims 56, 63 and 67 being independent. New claims 56-69 are directed to elected Group I, that is a percutaneous coupling apparatus that includes an electrode and a coupling member. Each independent claim will be discussed in detail below with respect to U.S. Patent No. 6,208,893 to Hofmann cited in the previous September 13, 2006 Office Action.

Independent claim 56 recites a percutaneous apparatus that generally includes an elongated percutaneous electrode, and a coupling member. Claim 56 further recites that the electrode has a first sharp end and a second opposite end that has first and second segments which are configured to resiliently return toward a neutral position. Claim 56 also recites that the first and second segments are configured to form a bend therebetween so that at least part of the first segment faces toward at least part of the second segment.

For example, Figures 29 and 30 of Applicants' disclosures show an exemplary electrode where the second end of the electrode has first and second segments 2931 and 2933 and the first segment has at least a portion that faces toward a portion of the second segment 2933.

Hofmann fails to disclose, teach or suggest all of the elements of claim 56. In particular, none of the needles or conductors disclosed in Hofmann include an end with first and second segments configured to form a bend so that at least part of the first segment faces toward at least part of the second segment. In the September 13, 2006 Office Action, the Examiner cited to the embodiments of Figures 21 and 22, and Figures 24 and 25 of Hoffman.

The needles 152 of Figures 21 and 22 do not include a bend formed by first and second segments, as recited in claim 56. Although each of the needles 152 may have a curved portion, that curved portion is not formed by first and second segments where at least part of the first segment faces toward at least part of the second segment. In fact, no portion of an individual electrode 152 faces another portion of that electrode 152. Instead, the needles of Hofmann extend straight through the outer tube 146. Similarly, neither the needles 178 nor conductors 182 of Figures 24 and 25 of Hofmann include a bend formed by first and second portions, as recited in claim 56. Both the needles 178 and the conductors 182 of Figures 24 and 25 show an offset or a zigzag portion; however those zigzag portions do not create a bend between first and second segments of an individual needle or conductor 178 and 182 with at least a part of the first segment facing toward at least a part of the second segment.

Anticipation requires that every limitation of a claim must identically appear in a prior art reference. See *Gechter v. Davidson*, 43 U.S.P.Q. 2d 1030, 1032 (Fed. Cir. 1997). It is clear that the limitation of first and second segments configures to form a bend so that at least part of the first segment faces toward at least part of the second segment does not identically appear in Hofmann. Absence from the prior art reference of any claimed element negates anticipation. See *Rowe v. Dror*, 42 U.S.P.Q.2d 1550, 1553 (Fed. Cir. 1997).

Therefore, Applicants believe new independent claim 56 is allowable over Hofmann.

Independent claim 63 also recites a percutaneous apparatus that includes an electrode and a coupling member. The claim also recites that the electrode has a first sharp end and a second opposite end with first and second segments. Claim 63 further recites that part of the second end is offset from the axis of the first end and that the first and second segments are configured to form a bend so that the first and second segments face one another.

Hofmann fails to disclose an electrode with first and second segments wherein at least part of the second end of the electrode is offset from the axis of the first segment of the electrode, with the first and second segments configured to form a bend therebetween so that the first and second segments face one another.

Although the needles 152, the needles 178, or the conductors 182 of Hofmann may have portions that are curved, none of those curved portions define first and second segments that have a bend therebetween so that they face one another. Instead, the needles 152, the needles 178, or the conductors 182 extend straight through the tube of the apparatus both before and after the curved portions.

Therefore, all of the elements of independent claim 63 are also not identically found in Hofmann.

Independent claim 67 recites a percutaneous apparatus that includes an electrode and a coupling member, the electrode having a second end with a first segment aligned along a first axis and a second segment aligned along a second axis offset from the first axis. Claim 67 also recites that the first and second segments are configured to form an approximately 180 degree bend between the first and second segments. Claim 67 further recites that the approximately 180 degree bend contacts an electrically conductive portion of the coupling member.

Hofmann fails to disclose, teach or suggest all of the elements of independent claim 67. In particular, none of the needles or conductors of Hofmann include an end with first and second segments offset from one another and a 180 degree bend therebetween. As discussed above, the needles 152, the needles 178 and the conductors 182 do have curved or zigzag portions. However, those portions are not configured to form an approximately 180 degree bend. One of ordinary skill in the art would interpret an approximately 180 degree bend to

mean generally U-shaped and not straight. None or of the curved or zigzag portions of the Hofmann bend approximately 180 degrees.

Additionally, none of the curved or zigzag portions of the needles 152, the needles 178 and the conductors 182 of Hofmann are configured to form a bend that contacts a conductive portion of a coupling member, as recited in claim 67. It appears from Figs. 21 and 22 that the curved portions of the needles 152 do not touch any portion of the tube 146, and similarly in Figs. 24 and 25, that the curved or zigzag portion of the needles 178 or conductors 182 do not touch any portion of the tube 162.

Therefore, Hofmann also fails to teach or suggest all of the claim elements of independent claim 67.

Accordingly, independent claims 56, 63 and 67 are not anticipated by Hofmann and thus are believed to be allowable over Hofmann.


Dependent claims 57-62, 64-66, 68, and 69 are also allowable for the same reasons discussed above. Moreover, these claims recite additional features not found in Hofmann. For example, dependent claims 61, 65, and 68 each recite that the first and second and the bend form a button hook shape. None of the electrodes cited to in Hofmann include any portion that has a button hook shape. Also, dependent claim 62, 66, and 69 each recite the second end is configured to form multiple bends wherein each bend has first and second segments facing one another. As discussed above, none of the needles 152, the needles 178 or the conductors 182 of Hofmann include portions or segments that face one another.

In view of the foregoing, Applicants believe claims 56-69 are in allowable condition. Prompt and favorable treatment is respectfully solicited.

Please charge any shortage of fees or credit any overpayment thereof to BLANK ROME LLP, Deposit Account No. 23-2185 (000309-00261). In the event that a petition for

an extension of time is required to be submitted herewith and in the event that a separate petition does not accompany this report, Applicants hereby petition under 37 C.F.R. §1.136(a) for an extension of time for as many months as are required to render this submission timely. Any fee due is authorized above.

Respectfully submitted,


Tara L. Laster Hoffman
Attorney for Applicants
Registration No. 46,510

BLANK ROME, LLP
Watergate
600 New Hampshire Ave., N.W.
Washington, D.C. 20037
Telephone: (202) 772-5800

Date: April 9, 2007